

## § 3560.71

title opinion that identifies the housing as real property and insures or indemnifies against any loss if the manufactured home is determined not to be part of the real property. The property must be taxed as real estate by the jurisdiction where the housing is located if such taxation is permitted under applicable law when the loan is closed.

(e) *Special warranty requirements.* The general contractor or dealer-contractor, as applicable, must provide a warranty in accordance with the provisions of 7 CFR part 1924, subpart A.

(1) The warranty must establish that the manufactured homes, foundations, positioning and anchoring of the units to their permanent foundations, and all contracted improvements, are constructed in conformity with applicable approved plans and specifications.

(2) The warranty must include provisions that the manufactured homes sustained no hidden damage during transportation and, for double-wide units, that the sections were properly joined and sealed.

(3) The general contractor or dealer contractor must warrant that the manufacturer's warranty is in addition to and does not diminish or limit all other warranties, rights, and remedies that the borrower or lender may have.

(4) The seller of the manufactured homes must deliver to the borrower the manufacturer's warranty with an additional copy for RHS. The warranty must identify the units by serial number.

## § 3560.71 Construction financing.

(a) *Construction financing plan.* Prior to loan approval, applicants must submit to the Agency for its concurrence a plan for the construction financing and securing of the loan.

(b) *Interim financing.* Interim financing is required by the Agency for any construction, except as noted in paragraph (c) of this section.

(1) The Agency reserves the right to review and approve the interim financing arrangements proposed by the applicant.

(2) When interim financing is used, the Agency will obligate the funds and provide an interim financing letter to the lender that will confirm the procedures and conditions for the construc-

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tion financing. The take-out loan will be closed and the interim lender paid off when the conditions of the interim financing letter have been met.

(3) The applicable provisions of 7 CFR part 1924, subpart A will be used to monitor the construction.

(4) An environmental review must be completed in accordance with 7 CFR part 1940, subpart G, prior to issuance of the interim financing letter.

(c) *Multiple advances.* When interim financing is not available or when it is in the best interest of the Federal Government, the Agency may provide for multiple advances of the funds to cover the cost of construction.

(1) The Agency will review and approve the multiple advances proposed by the borrower.

(2) When multiple advances are used, the Agency will close the loan prior to any advancement of funds and the relevant provisions of 7 CFR part 1924, subpart A will be used to monitor the construction.

(3) The loan check will be handled in accordance with 7 CFR part 1902, subpart A.

## § 3560.72 Loan closing.

(a) *Requirements.* Loans will be closed in accordance with 7 CFR part 1927, subpart B and any state supplements. In all cases, the borrower must:

(1) Provide evidence that an Agency-approved accounting system is in place;

(2) Execute a restrictive-use contract acceptable to the Agency that establishes the borrower's obligation to operate the housing for program purposes for the term of the Agency loan;

(i) For all section 514 loans, except as provided in § 3560.621, made pursuant to a contract entered into on or after the effective date of this regulation, the following language will be included in the mortgage and deed of trust: "The borrower and any successors in interest agree to use the housing for the purpose of housing people eligible for occupancy as provided in sections 514 and 516 of title V of the Housing Act of 1949, and Rural Housing Service regulations then in effect. The restrictions are applicable for a term of 20 years from the date on which the last loan was closed.

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No eligible person occupying the housing will be required to vacate nor any eligible person denied occupancy for housing prior to the close of such period because of a prohibited change in the use of the housing. A tenant or person wishing to occupy the housing may seek enforcement of this provision as well as the Government.”

(ii) All other loans are subject to restrictive-use provisions as outlined in subpart N of this part.

(3) Provide evidence that construction financing arrangements are adequate when interim financing is going to be used;

(4) Provide evidence that all the funds from other sources as proposed in the application are available and that there have been no changes in the Sources and Uses Comprehensive Evaluation (SAUCE).

(5) Provide evidence of the title to all security required by the Agency;

(6) Provide a certification that all construction in the case of interim financing has been or, in the case of multiple advances, will be paid;

(7) Provide, in the case of interim financing, a dated and signed statement from the owner's architect certifying to substantial completion of the housing project;

(8) Provide a certification that all construction in the case of interim financing has been or, in the case of multiple advances, will be in accordance with the plans and specifications concurred in by the Agency;

(9) Provide evidence, if applicable, that the conditions of the interim financing letter have been met; and

(10) Attend a pre-occupancy conference with the Agency.

(b) *Cost certification.* In all cases, the borrower must report actual construction costs. Whenever the State Director determines it appropriate, and in all situations where there is an identity of interest as defined in 7 CFR 1924.4 (i), the borrower, contractor and any subcontractor, material supplier, or equipment lessor having an identity of interest must each provide certification as to the actual cost of the work performed in connection with the construction contract in accordance with 7 CFR part 1924, subpart A. The construction costs must also be audited in

accordance with Governmental Auditing Standards, by a Certified Public Accountant (CPA). In some cases, the Agency will contract directly with a CPA for the cost certification. Funds that were included in the loan for cost certification and which are ultimately not needed because Agency contracts for the cost certification will be returned on the loan. Agency personnel will utilize exhibit M of 7 CFR part 1924, subpart A to assist in the evaluation of the cost certification process.

(c) *Notification of loan cancellation.* Loans may be canceled after approval and before loan closing. The Agency will notify all parties of the cancellation and the reasons for the cancellation in accordance with 7 CFR part 1927, subpart B.

### § 3560.73 Subsequent loans.

(a) *Applicability.* The Agency may make a subsequent loan to a borrower to complete, improve, repair, or make modifications to MFH initially financed by the Agency or for equity for preservation purposes. Loan requests to add units to comply with accessibility requirements may be processed as a subsequent loan; however, loan requests to add units to meet market demand will be processed as an initial loan request and must compete under the NOFA.

(b) *Application requirements and processing.* Upon receipt of a subsequent loan request, the Agency will inform the applicant what information is required based on the nature and purpose of the loan request. Subsequent loan requests do not have to compete for funding against initial loan proposals.

(c) *Amortization and payment period.* Subsequent loans will be amortized over a period not to exceed the lesser of the economic life of the housing being financed or 50 years and paid over a term not to exceed the lesser of the economic life of the housing or 30 years from the date of the loan.

(d) *Equity contribution.* Applicants for subsequent loans must make contributions on the loans in the same proportion as outlined in § 3560.63(c). Loan applicants will not be given consideration for any increased equity value that the property may have since the initial loan.